**THE HON'BLE SRI JUSTICE V.V.S.RAO**

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**WRIT PETITION No.481 of 2005**

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**Dated:23.03.2006**

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Between:

Edupulapati Yelleswara Rao, S/o.Kotaiah.

…Petitioner

And

Government of A.P., Rep. by its Principal Secretary, Panchayat Raj Department, Secretariat, Hyderabad, and others.

…Respondents

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**WRIT PETITION No.481 of 2005**

**ORDER:**

The petitioner was elected as Sarpanch of Mandadam Gram Panchayat of Guntur District. Some of the villagers filed W.P.No.20646 of 2003 before this Court alleging that the petitioner has misappropriated Gram Panchayat funds and that in spite of the same being brought to the notice of the District Collector action against the petitioner was not taken. This Court disposed of the Writ Petition on 21.04.2004 directing the District Collector to take appropriate action in the matter. Therefore, after looking into the allegations, the District Collector, the second respondent herein, issued a show cause notice on 15.07.2004 under Section 249(6) of the Andhra Pradesh Panchayat Raj Act, 1994 (for short 'the Act') calling upon to show cause as to why the petitioner should not be suspended from the Office of the Sarpanch. The petitioner submitted explanation. By proceedings, dated 02.11.2004, the District Collector suspended the petitioner as Sarpanch and further directed the Upasarpanch to take charge. Aggrieved by the same, the petitioner filed a writ petition, being W.P.No.20588 of 2004. The same was dismissed by this Court as the petitioner has an effective alternative remedy of filing a revision before the Government. Accordingly, the petitioner filed a revision petition. By impugned Government Order, being G.O.Rt.No.37, dated 07.01.2005, the Government dismissed the revision petition. This is assailed in the Writ Petition. Though interlocutory matters are listed, the matter is heard finally and is being disposed of by this order.

The third respondent has filed counter affidavit denying various allegations and disputing various contentions raised by the petitioner. A detailed account of the misappropriation committed by the petitioner is given in the counter affidavit. As it is not proper for this Court to examine the merits of the case based on facts, it is not necessary to refer to in details.

The learned Counsel for the petitioner raised two contentions. He submits that the explanation given by the petitioner on 30.07.2004 pursuant to the show cause notice has not been considered by the District Collector. Secondly, he would urge that the third respondent submitted a report on 03.09.2002 and 02.12.2002 to the District Collector informing that the petitioner revised the estimate of the work without getting the approval by the Gram Panchayat. The Collector looked into the matter and issued proceedings on 20.04.2003 administering a warning to the petitioner not to repeat such things in future. Therefore, for the same allegation again the second respondent cannot take action under Section 249(6) of the Act. These contentions are refuted by the learned Assistant Government Pleader for Panchayat Raj and learned Counsel for respondent Nos.4 and 5.

A perusal of the record available in the case would show that elected members of the Gram Panchayat gave representations to the District Collector alleging that the petitioner has committed irregularities and misappropriated funds in connection with the work of cement road between Church and Elementary School. In the meanwhile,

the third respondent submitted report to the Collector regarding the revision of estimates by the petitioner and unilaterally looking into the same, the Collector warned the petitioner. It is altogether different situation. When the elected members did not receive any response from the District Collector a writ petition was filed before this Court, being W.P.No.20646 of 2003. The same was disposed of by this Court giving certain directions. Based on the orders of this Court, the District Collector initiated action under 249(6) of the Act and after following the procedure under law, suspended the petitioner. The action taken by the District Collector earlier in April 2003 is altogether different from the action taken by the District Collector pursuant to the orders passed by this court in W.P.No.20646 of 2003. Therefore, the submission of the learned Counsel cannot be accepted.

The submission that the District Collector did not consider the explanation submitted by him on 30.07.2004 is devoid of any merit. A reading of the impugned order would show that the District Collector has considered the explanation submitted by the petitioner with reference to the irregularities alleged, and therefore, it cannot be said that the impugned order suffers from non-application of mind. The Government has considered the matter afresh and dismissed the revision. The said order does not suffer from any infirmity.

The Writ Petition is therefore, dismissed. No costs.

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(V.V.S.RAO, J)

23.03.2006

vs